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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,741	06/23/2003	Bryan T. Starbuck	MSFTP438US	9003
27195 7590 01/10/2008 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER BAYARD, DJENANE M	
			ART UNIT 2141	PAPER NUMBER
			NOTIFICATION DATE 01/10/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/601,741

Applicant(s)

STARBUCK ET AL.

Examiner

Djenane M. Bayard

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/17/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 42-52 and 73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 42-52 and 73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/16/07 and 11/29/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to communication filed on 10/17/07 in which claims 1-12, 42-52 and 73 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-12, 42-52 and 73 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-12, 42-52 and 73 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of

the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-8, 10-12, 42-49, 51-52 and 73 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2003/0041126 to Buford et al.

a. As per claims 1 and 73, Buford et al teaches a spam detection system comprising: a message parsing component that identifies features relating to at least a portion of origination information of a message (See page 3, paragraph [0036], *using an analysis protocol on the spam email to analyze the format and extract specific information of the message*); and a feature pairing component that combines the features into useful pairs, the features of the pairs are evaluated for consistency with respect to one another to determine if the message is spam (See page 4, paragraph [0047-0049] and figure 7).

b. As per claim 42, Buford et al teaches a method that facilitates generating features for use in spam detection comprising: receiving at least one message; parsing at least a portion of a message to generate one or more features (See page 3, paragraph [0036]); combining at least two features into pairs, each pair of features creates at least one additional feature, the features of each pair coinciding with one another (See page 4, paragraph [0047-0049]); using the pairs of features to train a machine learning spam filter regarding acceptable or unacceptable pairs; and detecting a spam e-mail based at least in part on comparing one or more pairs of features in the e-mail to at least one pair in the machine learning spam filter (See pages 4-5, paragraph [0049]).

c. As per claims 2 and 44, Buford et al teaches the claimed invention as described above. Furthermore, Buford et al teaches each pair comprises at least one of the following: at least one of a domain name and a host name in a MAIL FROM command; at least one of a domain name and a host name in a HELO COMMAND; at least one of an IP address and a subnet in a Received from header; at least one of a domain name and a host name in a Display name; at least one of a domain name and a host name in a Message From line; and at least one time zone in a last Received from header (See page 4, paragraph [0047-0049]).

d. As per claims 3 and 45, Buford et al teaches the claimed invention as described above. Furthermore, Buford et al teaches the domain name is derived from the host name (See page 3, paragraph 0036]).

e. As per claim 4, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches the subnet comprises one or more IP addresses that share a first number of bits in common (See page 4, paragraph [0043]).

f. As per claims 5 and 47, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches a useful pair is any one of a domain name and a host name from a Message From and from a HELO command (See page 4, paragraph [0047-0049])

g. As per claims 6 and 46, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches a useful pair is a Display name domain name and host name and a Message From domain name and host name (See page 4, paragraph [0047-0049]).

h. As per claims 7 and 48, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches a useful pair is any one of a domain name and a host name in a Message From and any one of a Received from IP address and subnet (See page 4, paragraph [0047-0049]).

i. As per claims 8 and 49, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches a useful pair is a sender's alleged time zone and a Message From domain name (See page 3, paragraph [0036]).

j. As per claim 10, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches origination information comprises SMTP commands, the SMTP commands comprise a HELO command, a MAIL FROM command, and a DATA command (See page 4, paragraph [0047-0049]).

k. As per claim 11, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches the DATA command comprises a Message From line, sender's alleged time zone, and sender's mailing software (See page 3, paragraph [0036] and page 4, paragraph [0047-0049]).

l. As per claim 12, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches comprising a component that applies one or more heuristics consistently to mail messages to obtain consistent feature pairing (See page 4, paragraph [0047-0049]).

m. As per claim 43, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches the at least a portion of the message being parsed corresponds to origination information of the message (See page 3, paragraph [0036]).

n. As per claim 51, Buford et al teaches the claimed invention as described above.

Furthermore, Buford et al teaches selecting one or more most useful pairs of features to train the

machine learning filter (See pages 4-5, paragraph -0049]).

- o. As per claim 52, Buford et al teaches the claimed invention as described above. Furthermore, Buford et al teaches the detecting a spam e-mail based at least in part on one of: receiving new messages; generating pairs of features based on origination information in the messages (See page 3, paragraph [0036]); passing the pairs of features through the machine learning filter; and obtaining a verdict as to whether at least one pair of features indicates that the message is more likely to be spam (See pages 4-5, paragraph [0049]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2003/0041126 to Buford et al in view of U.S. Patent Application No. 2003/0149733 to Capiel.

a. As per claims 9 and 50, Buford et al teaches the claimed invention as described above. Furthermore, Buford et al teaches a useful pair comprises of any one of a domain name, host name and user name derived from one of an SMTP command and a message header (See page 3, paragraph [0036]). However, Buford et al fails to teach a useful pair comprises a sender's type of mailing software

Capiel teaches wherein the server sensor program may save information about the e-mail client, such as the e-mail client software type (See paragraph [0006]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Capiel in the claimed invention of Buford et al in order to detect and monitor file formats (See paragraph [0002]).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878.

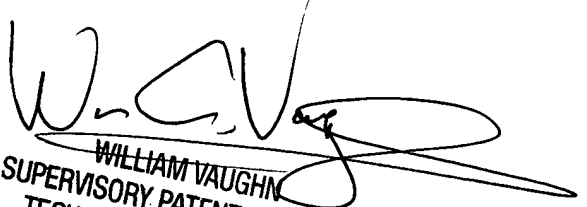
The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djenane Bayard

Patent Examiner


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